

Central Intelligence Agency



Washington, D.C. 20505

OCA86-1442

06 MAY 1986

The Honorable Edwin Meese, III
The Attorney General
Washington, D.C. 20530

Dear Ed:

During consideration of the draft Intelligence Authorization Bill for Fiscal Year 1987, the Department of Justice raised objections to several legislative initiatives which the Agency had proposed. One of these proposals concerns legislation to criminalize unauthorized disclosures of classified information, a matter which I addressed in a separate letter to you. Two other proposals involve legislation to provide employees of the Intelligence Community immunity from civil suit and legislation that would restrict employment of former intelligence officers by foreign governments. I believe that both these proposals have a great deal of merit, and I only reluctantly agreed to withdraw them from this year's authorization bill.

I understand the Department has objections to our proposal to provide Intelligence Community employees immunity from civil suit because this would undercut attempts to pass a bill that would provide all Government employees immunity from civil suit. This was the same objection that we heard over a year ago when we first submitted our legislative proposal to provide immunity from civil suit. Unfortunately, I have not detected any progress toward passage of a government-wide bill during the intervening year.

I do not believe we can continue to wait in the vain hope that Congress will act on the government-wide bill. Our employees and those of other members of the Intelligence Community are being sued for actions performed within the scope of their employment, and the fear of such personal liability is having an adverse effect on morale and impairing effective intelligence work. To help alleviate this problem, we recently instituted a program within the Agency to indemnify employees for any judgment or fine entered against the employee if the General Counsel determines that the employee has been acting within the scope of employment. This program, however, does not entirely resolve the problem for our employees who still must face the difficulties of litigation, or the rest of the Intelligence Community which is not covered by the program. I believe that the legislative relief that we seek, which would substitute the Federal Government as defendant in lieu of the employee, is a reasonable solution to the problem.

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However, if it is not possible to reach a consensus within the Executive Branch on a legislative solution, I would urge the Department of Justice to institute a government-wide indemnification plan to protect employees sued for actions they perform within the scope of their employment. I understand the Department is currently working on such a plan, and I would urge its speedy adoption.

The Department has also opposed our proposal to restrict former intelligence officers from being employed by foreign governments for a period of two years following termination of their employment with the Government. This proposal addressed the very serious problems of possible disclosure of classified information and the appearance of a conflict of interest posed by former intelligence officers working for foreign governments. I understand that the Department and other agencies were concerned about the broad scope of the proposed restriction. We would be willing to work with the Department to narrow the scope of the proposal so that it may receive favorable consideration during deliberations next year on the Intelligence Authorization Bill. However, we are not willing to abandon the idea that some limitations must be imposed on those officials who have access to sensitive information and who trade on their position to gain employment with hostile foreign powers.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

1 MAY 1986

OCA 86-1005

NOTE FOR: DCI
DDCI

FROM: Dave Gries

SUBJECT: FY-87 Intelligence Authorization Bill

REFERENCE: Memo to DCI from D/OCA dated 17 March 1986
Subject: Leaks Legislation

1/s/ David D. Gries

As I pointed out in the reference memo, the Department of Justice raised strong objections to the leaks legislation in the FY-87 Intelligence Authorization Bill. In addition, the Justice Department raised objections to two other Agency-sponsored initiatives that would provide employees of the Intelligence Community immunity from civil suit and restrict the employment by foreign governments of former intelligence officers. The latter proposal also elicited objections from the Department of State and NSC.

Because of the controversial nature of these proposals, OMB decided to drop them from this year's Intelligence Authorization Bill. I believe both these proposals have merit and I recommend that you send the attached letter to the Attorney General which addresses the issues of employment of former intelligence officers with foreign powers and immunity from civil suit. The letter urges the Attorney General to support a legislative solution to the problem of civil suits brought against government employees, or in lieu of such relief, a government-wide indemnification program. In addition, the letter reaffirms our commitment to seek some restrictions on the employment by foreign powers of former intelligence officers and offers to work with the Justice Department to formulate appropriate legislation.

Attachment
as stated

DCI
EXEC
REG

4-11-TR

Distribution:

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1 - General Counsel	FY-87 Intell/Auth Bill w/attachment
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OCA/LEG: (30 April 1986)

STAT

Central Intelligence Agency



Washington, D.C. 20505

Executive Registry

86-

1162

25 MAR 1986

The Honorable Edwin Meese, III
The Attorney General
Washington, D.C. 20530

Dear Ed:

I know that you share my concern regarding the increasing threat to our national security posed by unauthorized disclosure of classified intelligence information. The compromise of our intelligence sources, both human and technical, has placed lives in jeopardy and rendered expensive technical collection systems ineffective. Unfortunately, we have not been able to take effective steps to punish those who have violated their obligation to protect classified information and this has created the perception that nobody cares. We simply must restore discipline to the handling of sensitive information.

While there is no single solution to the problem of leaks, one step that can be taken is to enact legislation that would criminalize the reprehensible conduct of disclosing classified information to those outside the government who are not authorized to receive it. Enactment of leaks legislation, combined with a vigorous effort to detect those who are engaged in disclosing classified information, will restore an element of risk to those who misuse classified information.

We have proposed leaks legislation as part of the draft Intelligence Authorization Bill for the past two years. Last year, the Department raised objections to including leaks legislation in the Authorization Bill because the issue needed to be studied more closely and a consensus reached within the Executive Branch on whether we should attempt to enact leaks legislation. To date, I am not aware that any action has been taken to reach such a consensus.

This year we again proposed leaks legislation as part of the Authorization Bill. Once again, the Department questioned the need for the legislation and raised objections to the substance of our proposed bill. Last week, in a letter to the Director of the Office of Management and Budget, the Acting Director of Central Intelligence reluctantly agreed to the deletion of the leaks provision from the Authorization Bill.

I do not believe we can continue to indefinitely postpone taking effective action. Too many of our nation's secrets have already been compromised to continue a business as usual attitude. Because this issue can only be decided at the highest levels of the Administration, I intend to press for a meeting of the NSPG at the earliest possible date to address the question of whether the Administration is willing to work for enactment of leaks legislation. For the reasons set forth above, I am convinced that new legislation is a key first step in tackling this problem, and I hope I can count on your active support in accomplishing this goal. I am sure that we can work together to prepare effective legislation. I look forward to hearing from you on this matter in the very near future.

Sincerely,

/s/ William J. Casey

William J. Casey
Director of Central Intelligence

cc: Secretary of Defense
Secretary of State
Assistant to the President for
National Security Affairs
Director of Management and Budget

Distribution:

Original - Addressee	1 - DCI	"
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	FY 87 Intel Auth	
1 - DMP Signer		

LEG/OCA: [] (17 March 1986)

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FY '87 Intelligence Authorization Bill

FROM: David D. Gries
Director, Office of Congressional
Affairs

EXTENSION

NO. OCA 86-0100/4
OCA 86-0822

DATE

TO: (Officer designation, room number, and
building)

DATE

RECEIVED

FORWARDED

OFFICER'S
INITIALSCOMMENTS (Number each comment to show from whom
to whom. Draw a line across column after each comment.)

1.

EXDIR

19 MAR 1986

2.

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Attached is a memo on our strategy to obtain Administration support for leaks legislation and a letter for your signature to the Attorney General on the issue. The letter has been coordinated with the General Counsel.

Bill - John -

Dave's strategy makes sense. We are not going to move this issue without broad national security community support (State, DoD) and without a strong push from you.

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Note:

Bill -- John --

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J-111-TR

17 March 1986
OCA 86-0100/4

MEMORANDUM FOR: Director of Central Intelligence
FPOI: Director, Office of Congressional Affairs
SUBJECT: Leaks Legislation

1. As you know, the Administration has been discussing leaks legislation for the past several years, but no consensus has been reached on the need for leaks legislation or how it should be drafted. Last week, the ADCI reluctantly agreed to withdraw leaks legislation from FY87 Intelligence Authorization Bill because of intense opposition from other agencies, especially DoJ, to our proposal. (See Letter to OMB Director Miller at Tab A)

2. It is obvious that we will make no progress toward obtaining leaks legislation until we reach a high level consensus on the need for such legislation. I believe the Agency could play a central role in forming a consensus and recommend that we take the following action forthwith:

--Enlist the Secretaries of Defense and State to support the need for leaks legislation and have them join a call for a meeting of the NSPG to decide the issue.

--Send the attached letter to the Attorney General (Tab B) reiterating your conviction that leaks legislation is needed and informing him of your intent to bring the issue up for consideration by the highest levels of the Administration.

--Press Admiral Poindexter for the meeting of the NSPG by mid-April to decide whether the Administration will commit to Leaks legislation.



David D. Gries

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Attachments:
as stated

Distribution:

Original - Addressee (w/atts)

1 - D/OCA

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FY 87 Intel Auth

1 - DMP Signer

1 - DCI "

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1 - ER "

LEG/OCA: (17 March 1986)

STAT

Central Intelligence Agency



Washington, D.C. 20505



8 March 1986

The Honorable James C. Miller III
Director
Office of Management and Budget
Washington, D.C. 20503

Mr. Miller

I know that you share my concern regarding the increasing threat to our national security posed by unauthorized disclosure of classified intelligence information. The compromise of our intelligence sources, both human and technical, has placed lives in jeopardy and rendered expensive technical collection systems ineffective. Unfortunately, we have not been able to take effective steps to punish those who have violated their obligation to protect classified information and this has created the perception that nobody cares. We simply must restore discipline to the handling of sensitive information.


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We have proposed leaks legislation as part of the draft Intelligence Authorization Bill for the past two years. Last year, objections were raised to the inclusion of leaks legislation in the Authorization Bill because the issue needed to be studied more closely and a consensus reached within the Executive Branch on whether we should attempt to enact leaks legislation. To date, I am not aware that any action has been taken to reach such a consensus.

This year we again proposed leaks legislation as part of the Authorization Bill. Once again, we were told that consideration of leaks legislation should be postponed. I do not believe we can continue to indefinitely postpone taking effective action. Too many of our nation's secrets have already been compromised to continue a business as usual attitude.

Given the exceedingly compressed time frame imposed on the authorization process by Gramm-Rudman, I do not want to jeopardize the rest of our FY 87 authorization bill because of another internal debate on this issue. Therefore, I reluctantly agree to the deletion of the leaks provisions from this year's bill. In return, I trust that OMB will support and facilitate the enactment of strong leaks legislation this year.

Sincerely,



John N. McMahon
Acting Director of Central Intelligence